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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,417	10/01/2003	Peter Danko	046201-0109	5128
7590	05/21/2009			
Charles F Schill STEPTOE & JOHNSON LLP 1330 Connecticut Avenue N W Washington, DC 20036			EXAMINER	
			SCHATZ, CHRISTOPHER T	
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			05/21/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>		<b>Application No.</b>	<b>Applicant(s)</b>
		10/674,417	DANKO, PETER
<b>Examiner</b>		<b>Art Unit</b>	
	CHRISTOPHER SCHATZ	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 16 March 2009.  
 2a) This action is FINAL. 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1,2,6-12,14,15 and 31-44 is/are pending in the application.  
 4a) Of the above claim(s) 15 is/are withdrawn from consideration.  
 5) Claim(s) 31-42 is/are allowed.  
 6) Claim(s) 1,2,6-12,14,43 and 44 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**FINAL REJECTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 2, 6-12, 14, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (US 6037033) in view Gable et al. (US 2994361, newly cited).

Hunter teaches a method of closing an open end of a ribbed thermoplastic panel having a first layer 14 with a first end and a second layer 16 with a second end, the first layer being spaced apart from the second layer by a rib 20 directly interconnected therewith and extending from the first layer to the second layer (Figures 5 and 17-18), the first and second ends defining the open end, the first and second layers being heat weldable or fusible, wherein the rib is formed of a thermoplastic material (column 5, lines 13-27; column 6, lines 7-12; column 9, lines 18-20), the method comprising steps of: bending the first layer such that said first layer contacts the second layer; and fusing the first and second layers by heating at least one of a portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer to form a closed end extending proximate an edge of the ribbed thermoplastic panel and to define a space between the rib and the closed end (Figures 5 and 17-18; column 5, lines 23-28). It is unclear if Hunter discloses a method wherein the first layer is rolled between spaced first and second guides configured to contact the first layer and guide the first layer along a heated guide surface toward the second layer.

Gable discloses a method of edge sealing thermoplastic ends 10, 11 (column 2, lines 22-27) of first 1 and second 2 thermoplastic layers, said method comprising rolling (figure 5) the first layer between spaced first 6 and second 5 guides, said guides configured to contact the first layer and guide the first layer along a heated guide surface 12 toward the second layer, the rolling occurring along an arcuate surface (figure 8, surface 54 along which rolling occurs is arcuate) contacting the first and second layers, and simultaneously moving the second layer to contact the first guide 6 (page 1, column 2, line 71 – page 2, column 1, line 47). Such a method of edge sealing two thermoplastic sheets produces a strong bond between edges of the two sheets (page 2, column 3, lines 39-47). Therefore, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to fuse the first and second ends of Hunters panel by the fusing method disclosed by Gable above. Such a modification to the method of Hunter would produce a superior bond between the ends of each layer. As to claims 2 and 6, Hunter discloses overlapping of the layers (figure 18). As to claims 7 and 8, Gable discloses a method wherein the portions of both the first and second layer that contact each other are simultaneously heated (figure 1). As to claim 9, Hunter discloses such (figure 18). As to claims 10 and 11, both references disclose trimming such that the layer are equal in length (see figures). As to claim 12, Gable discloses a method of pressing and cooling the fused layers (column 3, lines 19-45).

As to claim 43, all the limitations were addressed with the exception of the guide being in the shape of a shoe. Gable discloses such (column 4, line 11; figure 3). As to claim 44, Hunter discloses the thermoplastic layers as flexible.

***Allowable Subject Matter***

3. Claims 31-42 are allowed.

The closest prior art is considered to be Leatherman et al. (US 5384002) and Gable et al. (US 2994361). Leatherman discloses the limitations of claims 31 and 37 as discussed in section 5 of the office action dated September 16, 2008. Leatherman does not disclose rolling the first free end between spaced first and second guides configured to contact and guide the first layer along a guide surface so that a first edge portion of the first layer bends and abuts a second edge portion of the second layer. Gable does disclose rolling the first free end between spaced first and second guides configured to contact and guide the first layer along a guide surface as discussed above, But Gable fails to disclose rolling the first free end so that a first edge portion of the first layer bends and abuts a second edge portion of the second layer. Nothing in the prior art discloses or suggests rolling the first end as recited in claims 31 and 37 so that a first edge portion of the first layer bends and abuts a second edge portion of the second layer.

***Response to Arguments***

4. Applicant's arguments filed 03/16/2009 have been fully considered but they are not persuasive.

The applicant argues that the rolling in claims 1 and 43 results in partial reorientation along an arcuate surface so that the layers are contacted. This statement is not commensurate with the scope of the applicant's claims. The claims only require

that the rolling occur along an arcuate surface, the first layer and second layer being contacted to each other, and rolling the first layer between spaced first and second guides. The claims do not require that the rolling at least partially reorient the layers such that contacting occurs. The claim simply states "contacting the first layer with the second layer" but the claim never requires that the rolling facilitate the contacting. Additionally, the claim only requires that the guides are *configured* to contact the first layer along a heated guide to toward the second layer. Gable discloses rolling along an arcuate surface 54 as discussed above.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER SCHATZ whose telephone number is 571-272-6038. The examiner can normally be reached on Monday through Friday 9 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER SCHATZ/  
Examiner, Art Unit 1791

/Richard Crispino/  
Supervisory Patent Examiner, Art Unit 1791